

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
Telecommunications Relay Services and	)	
Speech-to-Speech Services for	)	CC Docket No. 98-67
Individuals with Hearing and Speech	)	
Disabilities	)	

**Reply of Hamilton Relay, Inc., to Petitions for Reconsideration**

Hamilton Relay, Inc. (Hamilton), by its attorneys, submits these comments to support the Petition for Limited Reconsideration filed by Sprint Corporation (Sprint) on July 11, 2002 and the Petition for Reconsideration – Worldcom, Inc., filed by Worldcom, Inc., (Worldcom) on May 22, 2002. Hamilton currently provides traditional relay services under contract for six states, including Nebraska, Idaho, Louisiana, Kentucky, Wisconsin, and Rhode Island, and plans to provide IP Relay to all 50 states as soon as the Commission acts favorably on the Sprint petition.

Introduction

In the IP Relay Order, the Commission found "that IP Relay falls within the statutory definition of TRS and that such services are eligible to recover their costs in accordance with Section 225 of the Communications Act of 1934, as amended (Communications Act)."<sup>1</sup> The two petitions identify further essential waivers and suggest new durations for existing and proposed waivers. The Commission should adopt these waivers to recognize today's technological realities and realistic future expectations

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<sup>1</sup> *Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Petition for Clarification of WorldCom, Inc.*, ¶1 (IP Relay Order.), CC Docket No. 98-67 (rel. April 22, 2002).

or development and the need for prompt availability of IP Relay services. It should adopt the Sprint waivers, in particular, as soon as possible, to enable all TRS providers immediately to provide innovative IP Relay services competitively and to qualify for reimbursement from the interstate TRS Fund as the IP Relay Order provides.

Accordingly, Hamilton supports the petitioners' call for (1) additional waivers of the minimum standards for requirements in the IP Relay Order that are not now feasible and (2) establishment of realistic durations for existing and requested waivers.

§225 Requires Commission Rules that Foster IP Relay Provision As Soon As It is Technologically Feasible

Hamilton commends the Commission for its willingness to implement §225 flexibly to ensure that innovative relay services develop to mirror new services as they become available to the public in general. Keeping pace with developments for hearing- and speech-impaired customers is a policy soundly founded on the purpose underlying the enactment of §225 by Congress. Congress enacted the law to "provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual . . . [without any such impairment] to communicate using voice communication services by wire or radio." 47 U.S.C. § 225(a)(3). To spur the accommodation of new technology, the provision later directs the Commission to "ensure that regulations prescribed to implement this section encourage, consistent with Section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology." 47 U.S.C. § 225(d)(2). While this requirement means that new capabilities should be quickly made available, it also means that existing technology must be used for functions that are not yet

technologically feasible. That is the case with the functions for which Sprint asks waiver and Worldcom asks sufficient developmental timing on reconsideration.

Sprint demonstrates that the two additional waivers it requests are justified for compelling reasons already accepted by the Commission in the IP Relay Order:

The Commission Should Immediately Waive the Minimum Standard for Pay-Per Call Services Consistent with its Recognition that ANI is Unavailable

First, the Commission has already temporarily waived the requirement to provide location information to emergency agencies because (§30) "it would be unreasonable to require IP Relay to provide [ANI] information that it does not possess." Sprint explains that the lack of ANI in the Internet will also result in rejection of 900 service calls by pay-per-call providers. Sprint also shows that the few possible ways to interject number information would result in unacceptable risks that pay-per-call charges would be charged to the wrong party or fraudulently evaded. Under those circumstances, there is no reason for the pay-per-call providers to change their general practice of refusing calls where the caller's ANI is not delivered.

The Commission Should Immediately Waive the Minimum Standard for Hearing Carry Over Consistent with its Recognition that IP Relay Cannot Be Required to be "Accessible by Voice"

Second, Sprint explains, the Commission should waive the minimum standards for providing hearing carry over (HCO) functionality for the same technological inabilities that justify the waivers granted for voice carry over (VCO) and speech-to-speech (STS) relay service in the IP Relay Order. The Commission reasonably concluded (§32) that "technology and the marketplace should drive the pace at which Internet-based relay providers resolve the problems involved with providing voice access to IP Relay," though it saw "no reason why IP Relay cannot be used for the text leg of an

HCO call." The Commission correctly held (§32), however, that it is not feasible yet to require IP Relay to be "accessible by voice."

Sprint explains that providing the text leg of HCO still leaves the problem that the other leg, in the other direction, is infeasible because it requires "voice access to IP Relay." The same technological obstacles already recognized in the IP Relay Order require waiver to encourage immediate competitive availability and reimbursement for the IP Relay functions that are feasible. In short, prompt extension of the VCO and STS waiver to HCO is necessary.

The Duty Not to Discourage Feasible Technology Also Requires Grant of More Reasonable Waiver Durations

Worldcom's petition urges reconsideration of the one-year time limit on existing waivers of the minimum standards. Sprint endorses this request and extends it to the additional requested waivers discussed above. The Commission should reconsider the short duration of the minimum standards it adopted in the IP Relay Order and both extend those waivers and grant the new waivers requested by Sprint for periods that are realistically tied to the pace of technological development. Hamilton agrees that indefinite waivers would be reasonable, given the Commission's recognition that technology should drive such developments. The five-year alternative suggested by Worldcom would also provide better incentives for TRS providers to deploy and provide IP relay services, without the fear with short waivers that new requirements they cannot meet will interrupt their ability to obtain reimbursement from the TRS Fund.

The Worldcom petition raises many serious problems with various means for incorporating location information in IP relay calls. The Commission and TRS providers alike must work within the reality that geographical location is simply not a relevant

dimension of Internet communications. For now, the only prudent course is to waive the emergency information requirement indefinitely. Users of Internet telephony without hearing or speech disabilities certainly have no reason to expect that 911 location service will be provided. In short, a requirement for TRS providers would go far beyond requiring relay service that "is functionally equivalent to the ability of an individual . . . [without any such impairment] to communicate using [IP-based] voice communication services by wire or radio."

Worldcom (pp. 6-7) also points out that the waiver period for VCO and STS should not be only a year because IP-telephony does not provide adequate voice quality and may not for "many years," a concern that also arises with regard to CPE availability. Hamilton supports extending the waiver and awaiting a time when the quality of voice Internet telephone service and CPE penetration justify such a requirement.

Hamilton urges the Commission to augment and extend the duration of the waivers of the minimum standards as the petitions and comments show is justified under the Commission's waiver standard. Above all, the Commission should adhere to its commitment to foster delivery of new technology to users of relay services by flexibly allowing reimbursement and waiving infeasible or counterproductive standards such as these.

### Conclusion

Sprint and Worldcom have compellingly demonstrated the need for Commission waivers – and waivers of sufficient duration – to permit reimbursement for IP Relay without requiring or prematurely adding requirements that are not possible now and are not likely to be possible in one year. The Commission should waive indefinitely, or at

least for five years, the requirements that IP Relay include HCO, pay-per-call, 911 location, VCO or STS services.

Hamilton agrees with Sprint's final summary of the current dilemma:

[U]nless the Commission waives the requirement that pay-per-call service and HCO functionality be provided through IP Relay, Sprint and other providers of IP Relay will not be able to obtain compensation from the Interstate TRS Fund since they will not have met the minimum standards established by the Commission for the service. And, without compensation, such providers may have to curtail or discontinue their provision of IP Relay depriving potential users of the service the multitude of consumer benefits that the Commission expects from IP Relay.<sup>2</sup>

Accordingly, the Commission should act quickly to provide reimbursement for IP Relay.

Prompt action is necessary to enable Hamilton and other providers that want to begin providing IP Relay service today, but cannot prudently do so until the additional waivers are in effect to allow funding to begin.

Respectfully submitted,

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<sup>2</sup> Sprint petition at 5, citing the IP Relay Order at ¶¶7-9.

CERTIFICATE OF SERVICE

I, Vicki Redman, employee of Holland & Knight LLP, 2099 Pennsylvania Avenue, Suite 100, Washington, D.C. 20006, do hereby certify that a copy of the foregoing Reply of Hamilton Relay, Inc., to Petitions for Reconsideration was served on this 26<sup>th</sup> day of July, 2002, via hand delivery or by first class mail, to the following parties:

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\*Via Hand Delivery